

## RESTORATION IN THE PHILIPPINES

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SEPTEMBER 6 (legislative day, SEPTEMBER 4), 1951.—Ordered to be printed

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Mr. O'CONOR, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany S. 1415]

The Committee on the Judiciary, to which was referred the bill (S. 1415) to amend the War Claims Act of 1948, having considered the same, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

## PURPOSE

The purpose of the proposed legislation, as amended, is to authorize payment out of the War Claims Fund of certain claims of American missionaries, who aided the American Armed Forces and American civilians beleaguered in the Philippines, for the damage suffered by their welfare institutions of a nonprofit nature, as a result of combat action in the late war.

## AMENDMENT

Strike out all after the enacting clause and insert in lieu thereof the following:

That section 7 of the War Claims Act of 1948, as amended, is amended by inserting "(a)" after the section number, and by adding at the end thereof the following new subsections:

"(b) That any such religious organization or its personnel functioning in the Philippines and affiliated with a religious organization in the United States, which furnished relief in the Philippines to members of the Armed Forces of the United States or to civilian American citizens in accordance with the provisions of subsection (a) shall be compensated from the War Claims Fund, as hereinafter provided, for the loss and damage sustained as a consequence of the war to its schools, colleges, universities, scientific observatories, hospitals, dispensaries, orphanages, and other property or facilities connected with its educational, medical, or welfare work.

"(c) That any such affiliated organization furnishing relief which possessed any interest in, and whose personnel of American citizens substantially composed the administrative staff of any hospital whose prewar facilities and capacity have not been restored shall be compensated in an amount sufficient to enable such organization to replace the hospital's facilities and capacity equal to that which existed at

the time of the outbreak of the war, irrespective of what disposition was made subsequently of the land, buildings and contents.

"(d) That claims filed pursuant to subsection (b) shall be determined and paid upon the basis of postwar cost of replacement which shall be ascertained by the War Claims Commission. In making such determinations the Commission shall utilize but not be limited to the factual information and evidence contained in the records of the Philippine War Damage Commission; the technical advice of experts in the field; the substantiating evidence submitted by the claimants; and any other technical and legal means by which fair and equitable postwar replacement costs shall be determined.

"(e) The Commission is hereby authorized and directed to proceed at once with the necessary investigation, study and establishment of procedures in order to determine the replacement costs of the claims to be filed under subsections (b) and (c), using as a basis for beginning such investigation and study the evidence contained in the claims of those religious organizations or their personnel which have already filed and are eligible to be paid under the terms of subsection (a) of this section.

"(f) All claims under subsections (b) and (c) must be filed on or before January 1, 1952, and between that date and March 31, 1952, the Commission shall adjudicate according to law and provide for the payment of any claim filed pursuant to this section. In any case in which any money is payable as a result of subsections (b) and (c) to a religious organization or its personnel functioning in the Philippines, such money shall be paid upon request of such organization to its affiliate in the United States: *Provided*, That all money thus paid to such affiliated religious organization in the United States shall be used by such affiliate for the purpose of restoring the educational, medical and welfare facilities described in subsections (b) and (c) and located in the Philippines.

"(g) The Commission shall expedite the payments under this section without reducing payment of claims of American civilian internees and prisoners of war filed before March 31, 1952, pursuant to the provisions of sections 5 and 6 of this Act."

Amend the title so as to read:

A bill to amend section 7 of the War Claims Act of 1948.

#### STATEMENT

At the present time, section 7 of the War Claims Act of 1948 authorizes the War Claims Commission to receive, adjudicate according to law, and provide for the payment of any claim filed by any religious organization functioning in the Philippine Islands and affiliated with a religious organization in the United States, for reimbursement of expenditures incurred and for payment of the fair value of supplies used by such organization for the purpose of furnishing shelter, food, clothing, hospitalization, medicines, etc., to members of the Armed Forces of the United States at any time subsequent to December 6, 1941, and before August 15, 1945.

By enactment of the above section of the act, the Congress recognized the magnificent part played by American missionaries, in many cases at the risk or loss of their own lives, in bringing aid and comfort to the American forces beleaguered or captured in the Philippines.

By House Joint Resolution 258 (Public Law 371, 77th Cong., ch. 621, 1st sess., 55 Stat. 855) and according to the Sixth Annual Report of United States High Commission to the Philippines for fiscal year 1942, pages 73 and 119, an appropriation of \$30,000,000 was made available for public relief in the Philippines, but there is no record of any such expenditure due to the activities of the Japanese in prohibiting the transmittal of the relief. So far as possible, with their limited resources, the religious organizations in the Philippines undertook the task of providing relief.

At the time that section 7 was enacted, the Philippine War Damage Commission was in active operation and Congress had appropriated hundreds of millions of dollars to be used by the latter in assisting in the rehabilitation of the Philippines through restoration of property belonging to both citizens of the Philippines and Americans which had been destroyed during the course of the war. Hearings and reports clearly show that at the time the appropriations were made for this purpose, the principal consideration in setting the final amount was the terrific loss suffered by the operators of the private, nonprofit educational, medical and scientific institutions of the Philippines.

As Senator McGrath, then a member of the Senate Judiciary Committee and chairman of the subcommittee considering bill S. 1033, Eighty-first Congress, said on page 6 of the hearings:

Senator McGRATH. S. 1033 proposes to amend the so-called Philippine Rehabilitation Act of 1946 by adding section 114, which is subdivided into subsections (a), (b), (c), and (d).

In effect, Mr. Chairman, this amendment would permit the immediate payment, without regard to other provisions of the Philippine Rehabilitation Act, to certain private charitable, religious schools and hospitals and institutions of that nature, of the amount that they would be found to be entitled to both under the provisions of the law and under the provisions of the amendment that is hereby offered.

I may say that the Philippine Rehabilitation Act of 1946, while working out generally satisfactorily with respect to certain private institutions of the type of which I am speaking, it has not proved to be in effect a fair or equitable statute.

I am sure it was the intent of Congress that institutions of that type should be more fairly treated than the formula—may I say—of the act effectuates for them.

There is every indication that Congress intended that these institutions, above all others, would be reestablished, reimbursed for their losses, and helped back on their feet.

It so happens, quite unintentionally, that under the language of the act, which was written up without too much experience at the time, that has just not happened. I know there are other witnesses here today who can give you in more detail the figures with respect to the amount of money that these institutions would be eventually entitled to, which is all out of proportion to the total amount which Congress has seen fit to set aside for the purpose.

We first started out here with a proposal to set up \$100,000,000 in funds to take care of these claims, and then when the claims of these educational, charitable, and religious institutions came to life, Congress immediately, without too much encouragement or propulsion on anybody's part, raised the fund to \$300,000,000, and eventually to \$400,000,000.

So that we know just from that attitude on the part of the Congress that it was their intent that these particular institutions should be most fairly treated.

After all, it was these that we wanted to reestablish, and that is all that S. 1033 seeks to do: To really give effect to what the original intent of Congress was, I believe, in the passage of the act.

In the same hearings, on page 17, Senator O'Connor said:

I do think, however, it might be very desirable if it were done promptly because I am impressed with the fact that prompt action is very essential, because not only might there be commitments and determinations under the present plan which might very well operate adversely against the proposal, but it seems to me that for every reason this measure ought to be given prompt consideration so that in the functioning of the Commission they will know exactly what is the desire of the Congress in this regard.

Furthermore, these charitable institutions were exempt from damage or destruction according to the rules of land warfare because of their acknowledged service to mankind. They should be restored at once.

However, in the administration of the Philippine Rehabilitation Act these latter institutions did not receive the proportionate share of the appropriations with the result that little, if any, restoration has been effected with respect to these properties. For example, it was testified in the hearings before the House Committee on Foreign Affairs, House of Representatives, Eighty-first Congress, on S. 1033 and H. R. 7600, that (statement of Sister Mary Trinita, Foreign Missions Sisters of St. Dominic, Inc., Maryknoll, N. Y., p. 158):

During the war, St. Paul's Hospital was leveled to the ground, not a stone upon a stone remained. A 100-bed hospital was in total ruins, gone, vanished. Now there is just a field where the hospital once stood.

I doubt if there is one man on this committee who will not be shocked when I tell him the amount the hospital received from the Philippine War Damage Committee for rehabilitation; the amount was \$24,276. Yes, less than \$25,000 to reconstruct a 100-bed hospital when it costs an estimated \$10,000 per bed to build a hospital. At this rate of payment, less than 2½ beds are allowed.

It must be borne in mind, in considering the task of rebuilding, that many of the buildings destroyed were built of solid stone and assessment of their replacement value could not fit in with any of our present-day standards of obsolescence and depreciation.

This formula, though suitable for determining the value of industrial buildings, was hardly applicable to the solid stone buildings used for schools, hospitals, and welfare institutions.

It is proposed by this legislation to pay to these religious organizations of all faiths a reasonable amount of money through which they may begin again to rebuild the splendid institutions in the Philippines which did so much to inculcate into the people of those islands the intense loyalty to our form of government which stood us so well in the late war and which will continue to provide an almost impregnable bulwark against the march of Communist aggression in the Pacific.

It is the traditional policy of the American Government to foster and protect the activities of the missionaries who bring the principles and techniques of the Christian and democratic way of life to the Orient. The missionaries are teachers, nurses, scientists who are especially trained to work in foreign lands and most of whom will devote their entire lives to this work without compensation. It is the view of this committee that this work must continue to fight effectively the ideologies of communism in the Orient, and particularly the Philippines. In addition, it is acknowledged that the missionaries are effectuating the objectives of the point 4 program without cost to the American taxpayer.

In the hearings on the Philippine Rehabilitation Act before the House Foreign Affairs Committee, Congressman Judd stated:

The activities of the religious and charitable organizations, hospitals, schools, and orphanages in the Philippines were far more helpful in causing the Filipinos to fight loyally by our side than the activities of those Americans and American concerns who were out there solely for the profit motive.

There follows a short analysis of the provisions of the proposed legislation.

Subsection (b) authorizes the payment out of the War Claims Fund to the organizations designated in (a) of compensation for damage to real property used in educational, medical, or welfare work.

Subsection (c) authorizes compensation to such organizations who did not actually own the facilities but provided the equipment, teachers, nurses, or personnel by which the institutions were operated.

Subsection (d) provides that the compensation to be paid shall equal the postwar cost of replacement of such facilities and presents a formula for arriving at a fair and equitable postwar replacement cost.

Subsection (e) authorizes and directs the Commission to proceed at once with the study which will be necessary in order to pay these claims. The committee is of the opinion that there has been unwarranted delay on the part of the Commission in processing and paying the claims heretofore authorized by the Congress and believes that the language of this section will assure the Commission that speedy and efficient action is desired. The committee understands that the religious organizations in the Philippines which are of the same denomination as religious organizations in the United States qualify as affiliates within the meaning of the proposed legislation.

Subsection (f) makes an additional effort to expedite payment of these claims and further provides that the sums received by the organizations shall be used to restore "the educational, medical and welfare facilities described in subsections (b) and (c) and located in the Philippines."

Provision has been made for payment in the United States of amounts allowed, for the reason if paid in the Philippines, the funds will be subject to a 17 percent tax on sales of foreign exchange in the Philippines, with the result that when building materials and school and hospital equipment will be purchased in the United States, 17 cents of every dollar would necessarily be paid to the Philippine Government.

Subsection (g) is to preclude a reduction of amounts to which American civilian internees and prisoners of war are presently entitled to under sections 5 and 6 of the act.

Attached hereto and made a part of this report is a letter received from the War Claims Commission.

WAR CLAIMS COMMISSION,  
Washington 25, D. C., August 4, 1951.

Hon. PAT McCARRAN,  
*Chairman, Committee on the Judiciary,*  
*United States Senate, Washington 25, D. C.*

MY DEAR SENATOR McCARRAN: Reference is made to your letter of May 1, 1951, requesting a report by the War Claims Commission on S. 1415, Eighty-second Congress, a bill to amend the War Claims Act of 1948.

The purpose of the bill is twofold. First, it would provide full compensation to religious organizations functioning in the Philippines affiliated with religious organizations in the United States, which furnished relief to civilian American citizens or members of the Armed Forces of the United States after December 6, 1941, and before August 15, 1945, for loss and damage sustained as a consequence of the war to their schools, colleges, universities, scientific observatories, dispensaries, orphanages, or any other property or facilities connected with their educational, medical or welfare work. Second, it would provide compensation to any such affiliated organization furnishing relief which possessed any interest in, and whose personnel of American citizens substantially composed the administrative staff of, any hospital whose prewar facilities and capacity have not been restored, in an amount sufficient to enable such organization to replace in full the hospital's facilities and capacity at the time of the outbreak of the war, irrespective of what disposition was made subsequently of the land, buildings, and contents.

The bill further provides that any claims filed pursuant to the above shall be determined and paid upon the basis of the "full postwar costs of replacement," which shall be ascertained by taking the estimates of costs of replacement of the property for the year 1941, calculated under the Philippine Rehabilitation Act of 1946, and multiplying such estimates  $2\frac{1}{2}$  times. The War Claims Commission

would be authorized to make estimates where no adequate estimates, pursuant to the above, have been made.

The bill would authorize the War Claims Commission to receive, adjudicate according to law, and provide for the payment, from the War Claims fund, of any claim filed pursuant to this bill. In any case in which any money would be payable to an organization, as the result of the enactment of this bill, the Commission may authorize payment, upon request of such organization, to its affiliate in the United States.

The purposes of the bill would be accomplished by adding, by way of amendment, four new subsections to section 7 of the War Claims Act of 1948, as amended.

The War Claims Commission, which was created by the War Claims Act of 1948 (62 Stat. 1240), as amended, is presently authorized to receive, adjudicate according to law, and provide for the payment of certain categories of claims, and is directed, by section 8 of the act, to make a study of and render a report on war claims arising out of World War II which are not compensable under the act.

Among the categories of claims presently authorized are those made pursuant to section 7 of the act. That section authorizes the War Claims Commission to receive, adjudicate according to law, and provide for the payment of any claim filed by any religious organization functioning in the Philippine Islands and affiliated with a religious organization in the United States, or by the personnel of any such religious organization, for reimbursement of expenditures incurred, or for payment of the fair value of supplies used, by such organization or such personnel for the purpose of furnishing shelter, food, clothing, hospitalization, medicines and medical service, and other relief in the Philippines to members of the Armed Forces of the United States or to certain civilian American citizens at any time subsequent to December 6, 1941, and before August 15, 1945.

In connection with the above, the committee may be interested in the following regulations promulgated by the War Claims Commission defining the phrase "religious organization functioning in the Philippine Islands and affiliated with a religious organization in the United States" as used in section 7 of the act:

"§ 507.50 *Religious organization functioning in the Philippine Islands.* A "religious organization functioning in the Philippine Islands" means any church, sect, denomination, religious order or congregation, or any group, body, corporation, association or other entity formed for religious purposes, professing and adhering to the tenets of some particular religious faith or form of worship and which maintained under its auspices in the Philippine Islands, on or after December 7, 1941, a church, chapel, or other place of divine worship or a religious house, community, mission, convent or facilities for divine worship, or operated a school, dormitory, hospital, dispensary, orphanage or other like institutions under religious auspices; or any part, division or association of such churches, sects, denominations, religious orders, congregations, groups, bodies, corporations or entities.

"§ 507.51. *Affiliated with a religious organization in the United States.* A religious organization functioning in the Philippine Islands will be deemed to have been affiliated with a religious organization in the United States when (a) by its charter or articles of association, incorporation or its rules, regulations or constitution it was a branch, part or division of a religious organization operating in the United States; or (b) by its rules, regulations or customs was subject to the control or directions of the duly constituted authorities of a church, sect, or religious order operating in the United States; or (c) it was directly supported financially, in whole or in part, by a church, sect, or religious organization operating in the United States; or furnished or exchanged personnel with such organizations under conditions determined by the Commission to be consistent with the intent and purpose of section 7 of the act."

It appears that the intention of S. 1415 is to include the same organizations as are presently eligible under section 7 and the regulations issued thereunder.

The claims presently authorized to be paid under section 7 are for reimbursement for food, supplies, and other relief furnished by such organizations or the personnel thereof to members of the Armed Forces of the United States or to civilian American citizens. The underlying theory of this provision appears to be a recognition of the obligation of the Government to protect its own citizens and to reimburse agencies which by extending relief to American civilian and military personnel enabled them to further prosecute the war. S. 1415, however, would, if enacted, provide for the payment of a new category of claims, consisting of claims for damages to the property of such organizations.

The War Claims Commission recognizes that the objective sought by this bill is worthy, and it appreciates fully the very great importance and value of the good work being done by the various organizations which would be eligible to file claims under the bill. The Commission also is fully aware of the urgent need of the rebuilding of facilities connected with the health, education, and physical and spiritual welfare of the people of the Philippine Islands. That is a matter of great importance not only to the people of the Philippine Islands but to the people of the United States as well.

It appears from the reports of the United States Philippine War Damage Commission that certain of these organizations have received partial compensation for the property losses incurred by them during World War II, under the Philippine Rehabilitation Act of 1946 (60 Stat. 128). It is noted that S. 1415, if enacted, would provide for "full compensation" and that a certain formula is prescribed by which such "full compensation" is to be determined. That formula which consists of multiplying by  $2\frac{1}{2}$  times the estimates of costs of replacement of the property for the year 1941, calculated under the Philippine Rehabilitation Act of 1946, appears to have resulted from certain testimony on S. 1033 and H. R. 7600, Eighty-first Congress. These bills, if enacted, would have authorized the United States Philippine War Damage Commission to make additional compensation to certain of the organizations which would be covered by S. 1415. (See hearings before the Committee on Foreign Affairs, House of Representatives, 81st Cong., on S. 1033 and H. R. 7600, bills to further amend the Philippine Rehabilitation Act of 1946.) The War Claims Commission has insufficient information on which to advise as to the adequacy of this particular formula, as a method of determining "full compensation." However, it does consider that the idea of compensating a particular class of claimants in full, at this time, is a matter which should be very seriously weighed by the committee.

In this connection, the attention of the committee is invited to the preliminary study of war claims made by the War Claims Commission, and the resulting report, which contains recommendations for the recognition of certain claims arising out of World War II, deemed to be meritorious. This report has been printed as House Document No. 580, Eighty-first Congress. The Commission is making progress in its further study as recommended by the President's letter of May 3, 1950, which accompanied the submission of the preliminary report to the Congress.

The results of the Commission's study to date indicate very definitely that the total losses sustained by American citizens during World War II are of staggering dimensions. In view of this, it is not likely that all claims for such losses will be paid in full. An equitable over-all war claims program will require the establishment of priorities among the several categories of claims and claimants. It may well be that the Congress, in an evaluation of all of the claims which will be reported in the Commission's final study, will want to give the highest priority to the claims covered in the subject bill, to the extent of compensating them in full. However, it is submitted that until the Congress has the benefit of the Commission's final study, it would be inadvisable to make the legislative determination that these claims should be paid in full and that all other claims, which have not even been partially satisfied, should be left to future legislation.

The claims which this bill would recognize and pay represent war claims arising from World War II of a type which the Commission is now studying and which will be considered in its final report. The President in his letter of May 3, 1950, recommended that legislative action dealing with additional types of claims be delayed by the Congress until the Commission develops recommendations as to what claims should be authorized in legislation and what the standards of eligibility should be.

Sections 12 and 13 of the War Claims Act of 1948 make provision for covering into the Treasury certain liquidated German and Japanese assets, and for creation of the War Claims Fund. The claims presently recognized by the War Claims Act of 1948 are paid from the War Claims Fund, as would the claims authorized to be recognized by S. 1415 if enacted.

The Commission has made inquiry and is advised that the records of the United States Philippine War Damage Commission, with respect to property valuations made by that Commission under the Philippine Rehabilitation Act of 1946, are presently unavailable due to their transfer from the Philippines, and other factors. It is doubtful that such records, if available, would furnish a sound basis for an estimate of the cost of the bill. However, for the information of the committee, a statement appears in the hearings on S. 1033, Eighty-first Congress, before the House of Representatives Committee on Foreign Affairs that the total approved

value of the claims of 53 nonprofit hospitals and schools, multiplied by 2½, would amount to approximately \$20,000,000. (See hearings before the Committee on Foreign Affairs, House of Representatives, 81st Cong., on S. 1033 and H. R. 7600, p. 44.) However, the Commission does not consider that it would be justified in using this amount as its estimate of the approximate cost of the bill.

For the foregoing reasons, the War Claims Commission does not recommend favorable consideration of S. 1415, Eighty-second Congress, by your committee, at this time.

Due to the urgent request of the committee for a report on this bill, there has not been sufficient time in which to ascertain from the Bureau of the Budget the relationship of the proposed legislation to the program of the President. A supplemental report will be furnished later in this connection.

Sincerely yours,

DANIEL F. CLEARY,  
*Chairman, War Claims Commission.*

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